Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	§	
	§	GN Docket No. 12-353
AT&T Petition to Launch a Proceeding	§	
Concerning the TDM-to-IP Transition	§	
	§	
Petition of the National Telecommunications	§	
Cooperative Association for a Rulemaking to	§	
Promote and Sustain the Ongoing TDM-to-IP	§	
Evolution	§	

COMMENTS OF TEXALTEL

TEXALTEL is a trade association of competitive telecommunications providers that do business in Texas. TEXALTEL thanks the Commission for this opportunity to offer its comments in this proceeding relating to the Petition of AT&T to transition to IP networks.

Summary

TEXALTEL applauds the industry and the Commission for focusing on the transition from legacy technologies to Internet Protocol ("IP") or Session Internet Protocol ("SIP") based technologies. This transition is occurring as part of the historic evolutionary process that has been a part of the telecommunications network for the network's early days. As we engage in a dialog about how this transition impacts regulation, it is also critical to recognize that the transition from TDM to IP is just the latest step in the network's evolution just as the network evolved from switchboard operators to analog switches and from analog switches to digital ones.

Any transition must maintain the pillars to a necessary regulatory paradigm: effective wholesale markets to assure that consumers continue to have choices and effective retail competition rather than markets characterized by duopololy or ologopoly. The proposals thus far before the

Commission are quite different. AT&T suggests that the industry and regulators launch immediately into trial runs in selected exchanges wherein TDM facilities are retired and services replaced with IP-based alternatives. In contrast, the NTCA urges a much more cautious approach, wherein the Commission evaluates rules changes that will be necessary with the advent of SIP-based technologies before proceeding with implementation. NTCA urges that this sequence of events would allow the industry to proceed in a manner that would encourage investment because we would have much greater regulatory certainty. TEXALTEL supports an approach in line with NTCA's suggestions. Even AT&T acknowledges that the Commission needs to "understand the technological and policy dimensions of the TDM-to-IP transition and, in the process, identify the regulatory reforms needed to promote consumer interests and preserve private incentives to upgrade America's broadband infrastructure."[1] TEXALTEL agrees. However, examination of regulatory reforms must be completed first to assure that the process does not get ahead of the policy.

Background

Although it is tempting to get caught up in the moment and view/describe the transition of voice telephony to SIP signaling as revolutionary, a quick review of history shows that the changes are evolutionary, not revolutionary. The truth is that change is a constant in the telecommunications industry. SIP is just the latest change. While SIP may be the big buzzword today, there will be others before long that eclipse it. The telecom industry has seen many evolutionary changes, such as signaling changes from dial pulse to multifrequency, to common channel interface signaling (with the latest version being SS7) to ATM, and most recently to SIP. Each of these changes has brought greater economies, providing more efficiency and security, and/or offering new services and features. We have seen changes in transmission media from open wire, to various forms of cable, to

[1] AT&T Petition to Launch a Proceeding Concerning the TCM-IP Transition, page 1

microwave, to fiber, and now, in part, back to radio. Again, each of these changes has led to greater capacity, lower cost, better security and/or enabled more features and services.

To state the obvious, the Commission's rules have evolved with evolving technology and that evolution continues in this proceeding. We believe AT&T's motivation in this proceeding has little to do with technology, and a whole lot to do with attempts to abandon the regulatory framework on which competition operates today. AT&T's position in the past has been characterized as "new wires, new rules". Now AT&T suggests "New wires, no rules". The truth is, however, that there will always be a need to reach customers and wires will be necessary for the foreseeable future. As long as wires are a substantial means to reach customers, the Commission will need to continue regulations that mandate access to those wires at reasonable rates if consumers are going to have broad ubiquitous access the a broad array of competitive options.

Wholesale abandonment of interconnection rules is totally unjustified and would be disastrous for consumers. To do so would displace companies, disrupt customers, and put an end to investment by competitive telecommunications providers and an end to the pressure they bring on the incumbents to modernize, improve their technology and customer service, and keep rates down. The reality is, most rules in place today are still perfectly applicable to a SIP dominated world, and only minor updates are necessary.

TEXALTEL also points out that modernizing service platforms to IP-based technology does not eliminate legacy services. New platforms will continue to provide dial tone and the services such as Local Exchange Service, Switched Access Service, etc. Thus, while evolving platforms may facilitate offering new services, existing services will continue. Arguments that present services must be discontinued are misleading. Incumbent arguments that 252 and 271 requirements on RBOCs should be abandoned because of new technology are simply wrong. They are blatantly self-

serving and lack credibility. The real question is to what extent to the IP transition call into question revising some of the old wire/new wire rules that came out of the TRRO proceeding. To the extent the consumer is best served by moving to an IP framework and incumbents see benefits in also transitioning copper facilities to fiber, rules favoring copper access over fiber access lose their relevance.

Considerations for Next Steps

AT&T attempts to ignore the elephant in the room. First, we point out the obvious – forcing CLECs to transition to IP-based technologies is not an issue. Most competitive providers are far ahead of most ILECs in this transition. This transition will continue. The question AT&T would like the Commission to dance around is whether adequate reason exists to abandon wholesale market regulation. As suggested in the summary above, one more step in the evolution of technology is not cause to abandon what is working in this industry. Regulators must stay the course and keep the regulatory framework on which today's competition and customers services are built stable. Any alternative will lead to fewer choices and higher prices for consumers.

In meeting the "elephant" head on, the Commission must decide whether SIP-based interconnection will be regulated pursuant to FTA and existing interconnection agreements (modified as necessary to accommodate the new technologies). TEXALTEL asserts that not only is such regulation advisable, it is mandated by the FTA. In most regards, SIP is just another signaling technology to set up calls, tear down completed calls, and to control the packet based transmission over TCI/IP platforms. Many Competitive LECs today have established SIP interconnection. Some firms are in the business of "mediation" wherein they provide the conversion between SIP and TDM based platforms. The reality is that the same regulatory principals that guide today's TDM-based interconnection are applicable to SIP-based interconnection. Those ILECs who argue that today's principals should be abandoned are the ones who didn't like them when they were first established

and applied to TDM based interconnection. Most of the same LECs and have tried to thwart their application at every opportunity.

The competitive industry has long sought IP-based interconnection from ILECs because such interconnection is more efficient. As CLECs upgraded their core switching technology to IP-based switching platforms, it has become less costly to migrate all connections to other carriers to IP-based transmission. It is much more costly for CLECs to, as incumbents have mandated, purchase additional hardware to maintain TDM interconnection between their IP platform and ILECs' legacy platforms. In addition, conversion between TDM and SIP can introduce more latency into the network and can degrade the quality of a voice telephony call.

SIP-based Interconnection is not rocket science. The Texas PUC, for example, concluded that Session Internet Protocol is just one more form of signaling, and "Signaling is part of the ILEC's responsibilities under FTA . . ."[2] When both parties to an interconnection agreement have IP-based switching, they both have incentives to migrate to IP-based interconnection.

Southwestern Bell, DBA AT&T Texas, has refused to discuss IP based interconnection with CLECs. As late as March, 2010, when the Texas PUC appeared ready to order SIP interconnection, AT&T denied that it had any IP facilities, even though AT&T offers IP based long distance termination services[3]. These confusing signals have frustrated the competitive industry. Based on AT&T's petition, AT&T appears to now be catching up with the CLECs in this regard. TEXALTEL welcomes AT&T to the IP party and hopes that AT&T will no longer resist request from CLECs for IP interconnection.

[2] Texas Public Utility Commission, Docket 26381, page 110, 2nd full paragraph

[3] Texas Public Utility Commission, Docket 26381, Award, page 109, last paragraph, referring to AT&T Texas Exhibit 20, Neinast Rebuttal at17:7-10

Additional Issues for Consideration

Another issue that must be dealt with promptly is to resolve the 271 compliance issues wherein ILECs must continue to make "last mile" loop facilities available to competitors even after obligations to provide UNEs have expired. In WC Docket No. 05-25, RM 10593, In the Matter of Special Access for Price Cap Local Exchange Carriers . . ., the Commission seeks to address Special Access issues. It is the competitive industry's hope that the Commission will address special access pricing, and terms and conditions, and bring these prices, terms and conditions into compliance with FTA Section 271, as well as address whether current special access rates, terms and conditions are lawful, reasonable and in the public interest. In addition, there is no Special Access or other 271 compliant equivalent of an analog loop. That some Special Access prices are more than 10 times comparable TELRIC priced UNEs provides prime facia evidence that substantial price reductions are required. Term and volume requirements and prohibitions against using competitors' facilities where they are less costly again are evidence of draconian and anticompetitive terms and conditions.

AT&T has also petitioned for authority to end its obligations to maintain copper facilities for provision of CLEC services. Resolution of the 271 obligation issues described above is one important group of issues that must be resolved before consideration can be given to elimination of requirements to maintain copper facilities. The Commission has already opened a proceeding to resolve copper retirement issues[4]. Opening another to examine the same issues is unnecessary. The technologies to provide IP-based services over copper have evolved rapidly and replacement of those copper facilities is not necessary in most cases to provide viable IP-based services. CLECs have historically made broad use of ILEC copper facilities to provide T1 based services and Ethernet over copper (EoC) services. TEXALTEL conducted a survey of its members and other CLECs operating

[4] *In the Matter of Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloop,* FCC RM 11358.

in Texas, and found that over 400,000 businesses in Texas have access to CLEC Ethernet over Copper (EoC) services.

TEXALTEL suggests that if a RBOC should wish to abandon copper facilities, those facilities should be offered in place to competitors and auctioned off to the highest bidder. This would permit the RBOCs to recover some additional value of those facilities and would allow competitors to continue to have access to copper where it is useful to them.

Today, for most consumers the only viable "last mile" facilities are those of the ILEC. For small businesses, the most commonly provided service utilized copper facilities to provide DS1 based services. Ethernet over copper is replacing DS1 based services, as it provides more bandwidth and is better suited to IP-based services. These services can usually be provided using analog copper loops, thus lowering the CLEC costs of providing service. Some of these customers are in "lit buildings" wherein CLECs or other providers have installed fiber terminals and are a viable alternative to the ILEC facilities. However, the majority of small business customers are not in "lit buildings" and are not in buildings served by CATV providers, thus the ILEC is the only viable means of reaching these customers. Even in "unimpaired" wire centers, most the customers can only be reached by ILEC facilities.

Conclusion

In summary, TEXALTEL recommends that the Commission take the following actions to respond to AT&T's request to chart a migration path to IP technologies:

1. Affirm that IP is another form of signaling for interconnection and is an obligation of the ILEC pursuant to FTA § 251(c)(2). In so doing, the FCC should encourage providers to negotiate the nuances of IP interconnection to resolve situations where present ICA terms do

not adequately address IP interconnection, and to invoke dispute resolution procedures if necessary.

2. Proceed expeditiously to resolve issues of Special Access pricing and contract terms so that the industry can at long last be assured that "271" provisions have some long lasting meaning.
3. Once items 1 and 2 above have been resolved, move expeditiously to examine proposals to modify Commission rules to see if any changes are necessary regarding copper cable retirements.

Respectfully submitted,

TEXALTEL

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